

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:19-CT-3054-D

JUSTIN MICHAEL TYSON, )  
Plaintiff, )  
v. ) **ORDER**  
CAROL LEE OXENDINE, and )  
A. SANDERS, )  
Defendants. )

On May 15, 2019, this court referred plaintiff's complaint to Magistrate Judge Numbers for a frivolity review and a Memorandum and Recommendation ("M&R"). On June 21, 2019, Judge Numbers issued an M&R recommending that plaintiff's complaint be dismissed without prejudice for failure to state a claim upon which relief can be granted and that the court deny as moot plaintiff's motion for summary judgment. See [D.E. 12]. No party filed timely objections to the M&R.

"The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection is made." Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (alteration in original) (quotation omitted) (emphasis removed). Absent a timely objection, "a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Id. (quotation omitted).

The court has reviewed the M&R and the record. The court is satisfied that there is no clear error on the face of the record. Accordingly, the court ADOPTS the M&R, DISMISSES WITHOUT PREJUDICE plaintiff's complaint for failure to state a claim upon which relief can be granted, and DENIES as moot plaintiff's motion for summary judgment [D.E. 9].

SO ORDERED. This 9 day of July 2019.

J. Dever  
JAMES C. DEVER III  
United States District Judge